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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/519,852      | 12/29/2004  | Daisuke Takeda       | 3883.022            | 7012             |

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STEPHAN A. PENDORF, P.A.  
PENDORF & CUTLIFF  
5111 MEMORIAL HIGHWAY  
TAMPA, FL 33634

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| EXAMINER |
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HOEY, ALISSA L

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| ART UNIT | PAPER NUMBER |
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3765

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/519,852

Applicant(s)

TAKEDA ET AL.

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: in paragraphs 002, 003, 008, 0011, 0012, 0013, 0015, 0026, 0029, 0030 and 0032 have sentence(s) that do not have proper spacing between each word.

Appropriate correction is required.

### ***Claim Objections***

2. The claims are objected to because of the following informalities: the next amendment of the claims should not include any description on the same page as the claims, only the claims should be found on the claims sheets. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Malpee (US 5,774,898).

In regard to claim 1, Malpee teaches a sock (1) comprising a toe section (11) that covers the toes and in which a bulge section (7) is formed in the middle part in the length direction of the toe section and wherein the bulge section is formed in a located such that is covers the bottom half of the toes (figure 4).

In regard to claim 2, Malpee teaches the bulge section (7) being formed such that it gradually becomes thinner from the side of the large toe toward the side of the little toe (see figure 4).

In regard to claim 3, Malpee teaches the bulge section being formed such that is has an arc shape that protrudes downward (figure 4).

In regard to claim 7, Malpee teaches the toe section being formed such that it is divided into five insert sections for each individual toes and where the bulge sections are formed for each of the five insert sections (figure 4).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malpee.

Malpee teaches a sock with bulges as described above in claim 1. Malpee teaches the toe section being formed such that it is divided into a first insert section into which the large toe is inserted and a bulge section formed in the first insert section (figures 1 and 4). However, Malpee fails to teach a second insert section into which the other toes are inserted and a bulge section formed in the second insert section.

It would have been obvious to have provided the sock of Malpee to have five separate toe sections or two separate toe sections, because as long as the sock article

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has more than one toe sections for accommodating the toes with bulges in each of the toe sections the number of toe sections can be two or five as desired for end use.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takeda, Murrey, O'Neill, Craighead, Nordblad, Scholl, Hedges, Lambert, Levey, Langenfeld, Petrey, Throneburg, Roberts, Prychak, Lessard, Chiaruttini and Romay are all cited to show closely related garment articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alissa L. Hoey  
Primary Examiner  
Technology Center 3700